

## **Suggested changes to Utah State Board of Education Special Education Rules (November 2013), as of April 2016**

Changes have been tracked. Current language is in black text. Comments have been added to explain additions and deletions, and prompt for specific input, although all input is welcome. Formatting will be done near end of process. This document is a summary of most changes, but should be used in conjunction with the proposed changes document as it is not exhaustive.

### **Beginning of Book-Section I: General Provision**

- Updated Superintendent and Board membership, and introduction.
- Changes throughout from USOE to USBE (where appropriate).
- Added some definitions.
- Minor changes of clarification (e.g., adding acronyms and clarification wording such as non-profit, use of LEA when meaning schools districts and charters, and use of school district when it only applies to a school district) and removal of information no longer relevant (e.g., old dates and terminology no longer in use).
- Cross referenced applicable existing Board Rules and Utah Code which impact students with disabilities and align with IDEA requirements.
- Alignment with ESSA and changes in Utah as a result of the ending ESEA Waiver (e.g., HQ).
- Added language to align with IDEA (e.g., IEP team membership and Age of Majority Special Rule).

### **Section II: Identification, Location, and Evaluation**

- Added clarification on responsibility to conduct child find reevaluations within three years and for students in State custody/care.
- Clarified responsibilities of charter schools with child find.
- Clarified data tracking and reporting requirements under child find, also included in Section VI. Students in Other Settings.
- Clarified timeline to respond to referrals.
- Added note to referral to include language on DCFS requests for evaluations under statute.
- Added reference to Utah FERPA for parental consent, as it applies to IDEA evaluations.
- Clarified that instructional screenings should be evaluated for child find purposed.
- Added language to evaluation procedures to strengthen selection of appropriate assessments and ensure they are given by the allowed personnel (as required by Utah Code).
- Included a note with language regarding USDB and the assessment of students with visual and hearing impairments, as well as services from the Department of Health available under Board Rule and statute.

- Clarification added on when a reevaluation is not needed.
- Strengthened requirements for Development Delay, to ensure that LEAs conduct a full individual evaluation as part of child find, and rule out other primary disabilities.
- Included an additional option for determination of Specific Learning Disability (SLD) (i.e., the use of other alternative research-based procedures).
- Clarification added of who can administer and interpret assessment results, as well as the required components of RTI.
- For Speech Language Impairments (SLI), changed “should” to “must” for consideration of “the potential relationship of such an impairment to phonological processing and phonemic awareness.”

### Section III: IEP Development and Service Delivery

- Added in reference to other existing Board Rules.
- Clarification added to the responsibilities for implementation of IEPs and FAPE for students in State custody/care or placed in a local juvenile or adult correctional facility or temporary State placement for observation and assessment.
- Clarification added of the meaning of signing an IEP.
- Aligned special circumstance (behavior) with Board Rule and the revised LRBI Manual.
- Added clarification (from another section of the rules), that AT needs at home must be considered, if the team determines AT is needed at school.
- Clarification added that curriculum is grade-level and that LRE is with similar aged peers.
- Clarification added of eligibility to take an alternate assessment (to align with current DLM and UAA policy).
- Clarification added of progress reports on IEP goals.
- Clarification added on need for IEP teams to discuss and consider needs of students with disabilities participating in full range of educational offerings and reference to existing Board Rules.
- Clarification added that IEP teams for students ages 3-5 must consider the continuum of alternative placements.
- Added in existing language from ESY Board Rule to make these rules consistent.
- Clarified responsibilities of charter schools receiving IDEA or state special education funds.
- Revised section III.U. title from Nonacademic Settings to Nonacademic Settings/Extracurricular Activities, along with adding a note with statutory reference and language.

### IV. Procedural Safeguards

- Changed the State IDEA complaint process from the existing two tier system to a one tier system and alignment with the IDEA regarding the receiving party of a complaint and the party to whom it must be forwarded.

- Clarification added of receipt and responsibility of LEA and USOE to communicate with one business day upon receipt of state IDEA complaint or due process hearing.
- Clarification added of parent refusal to consent to partial IEP services and responsibility of LEA.
- Expansion of the State complaint process to include public agency, rather than limit to LEA, in conformance with IDEA.
- Clarification added that neither State IDEA complaints or due process complaints can be submitted in methods other than in person, U.S. Mail, or fax, for security.
- Clarification added of when expedited due processes are permissible.
- Added language from R277-752.
- Request input of any changes needed for alignment with R277-487 and FERPA to address confidentiality requirements within IDEA.

#### V. Discipline Procedures

- Clarification added that other Board Rules apply to students with disabilities.
- Clarification added that appeals of discipline outcomes resulting in a placement change must be made through a due process complaint.

#### VI. Students with Disabilities in Other Settings

- Request input on whether information included in statute, Board Rule, and the Interagency Agreement between USOE, LEAs, and USDB should be added to this section.
- Request input on whether this section should address and assign FAPE obligations for students attending an LEA other than their parent's resident district due to health needs. If so, request input on which LEA should be responsible or require coordination between LEAs.
- Request input on whether to address school district or residency, charter school of enrollment, and placement across LEAs for mental health or health services.
- Clarification added regarding child responsibilities of a school district with all private schools and home school students within the school district's boundaries, and the additional requirements for reporting, proportionate share funds, and consultation with the non-profit private schools, including dispute resolution process for those nonprofit private schools and the school district in which the school is located.
- Request input on whether something should be added to align with Carson Smith Scholarship statute and Rule about parent revocation of services.
- Request input on whether to add clarification of school district responsibility to provide space to USDB.
- Alignment with ESSA and changes in Utah as a result of the ending ESEA Waiver (e.g., HQ).

- Made changes to the Dual enrollment section to be aligned with Utah Statute and Board Rule and to clarify that the IEP team must consider the amount of time and courses to determine FAPE for the offered IEP.
- Requested input on addressing special education services for home school students enrolled in the statewide online education program.
- Added in section for students with disabilities enrolled in adult education.
- Added private school, in addition to residential facilities currently addressed.
- Request input on the amount of language should be included to ensure completion of the requirements of §300.154.
- Request input on addition of this new section for students with disabilities who are in State Custody/Care to provide clarification to a circumstances involving a unique group of students.
- Request input on the inclusion of a new section on students with disabilities placed in Utah through the Interstate Compact.

#### VII. Transitions

- Request input on whether to add language encouraging access to school counselors for students with disabilities.
- Clarification added in regards to GED not ending eligibility for FAPE.
- Language was changed and added to bring the graduation section in alignment with current Board Rule.
- Clarification added on 53A-15-301 to address common questions on ending eligibility dates for students with disabilities turning 22.
- Request input on clarifying language for school to post-school transition planning, an area of ongoing noncompliance in Utah, to assist IEP teams.
- Request input on adding of R277-752 language to this section also.
- Request consideration of changing age to 14 years for transition plans.
- Amended language on transition plans for clarity.

#### VIII. Responsibilities of the Utah State Office of Education

- Changed throughout from USOE to USBE (where appropriate)
- Changed language from school district to LEA, or added charter school specific language.
- Updated State and Program Monitoring sections, as well as State enforcement and reporting on suspensions and expulsions and USEAP, to align with current processes.
- Clarification added that other Board Rules apply to students with disabilities.
- Request input on substitutes, teachers of students with visual impairments/blindness, and interpreters for students who are deaf.
- Updated state fiscal processes for Federal and State special education funding processes (still in process).

## IX. LEA Eligibility and Responsibilities

- Changes throughout from USOE to USBE (where appropriate).
- Updated requirements for MOE to align with current Federal requirements.
- Added clarification language to names of funds and processes.
- Request input on adding in caseload guidelines as was included in previous versions.
- Request input on addresses USBE Educator, Leadership, and Paraeducator Standards.
- Updated State special education funding processes (still in process).

## Index

- Updates pending completion of document.